



Activity Review

North Carolina State Board of Certified Public Accountant Examiners

1101 Oberlin Road, Suite 104, Post Office Box 12827, Raleigh, NC 27605-2827 (919) 733-4222 No. 1 2001

Securities and Exchange Commission Revises Auditor's Independence Requirements

On November 15, 2000, the Securities and Exchange Commission (SEC) adopted rule amendments regarding auditor independence. The amended rules are effective February 5, 2001.

The amendments modernize the SEC's rules for determining whether an auditor is independent in light of investments by auditors or their family members in audit clients; employment relationships between auditors or their family members and audit clients; and the scope of services provided by audit firms to their audit clients.

The amendments, among other things, significantly reduce the num-

ber of audit firm employees and their family members whose investments in audit clients are attributed to the auditor for purposes of determining the auditor's independence. The amendments shrink the circle of family and former firm personnel whose employment impairs an auditor's independence.

They also identify certain non-audit services that, if provided by an auditor to public company audit clients, impair the auditor's independence. The scope of services provisions do not extend to services provided to non-audit clients.

The final rules provide account-

ing firms with a limited exception from being deemed not independent for certain inadvertent independence impairments if they have quality controls and satisfy other conditions.

Finally, the amendments require most public companies to disclose in their annual proxy statements certain information related to, among other things, the non-audit services provided by their auditor during the most recent fiscal year.

Additional information, as well as the full text of the amendments, is available from the SEC web site (www.sec.gov) under the "What's Hot" heading.

Board Approves Publication of Firm and SQR Conditionals

At its December 18, 2000, meeting the Board approved a policy allowing publication in the *Activity Review* of the name and city of any individual whose license is placed on conditional status for failure to comply with the Board's annual CPA firm registration (21 NCAC 8J .0108 and 21 NCAC 8J .0110) and SQR/Peer Review compliance requirement (21 NCAC 8M .0102).

The policy is effective beginning in 2001 with any individual whose license is placed on conditional sta-

tus pursuant to 21 NCAC 8J .0111(1) and conditional status with a one hundred dollar (\$100.00) civil penalty pursuant to 21 NCAC 8J .0111(2).

All partners or shareholders of a CPA firm are subject to these actions for failure to comply with the CPA firm and SQR/Peer Review requirements.

If you have questions about the policy, please contact the Board's Executive Director, Robert N. Brooks, by telephone at (919) 733-4222 or by e-mail at (rnbrooks@bellsouth.net).

www.state.nc.us/cpabd

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Advertising or Other Forms of Solicitation During Tax Season

As tax season swings into high gear, you or your CPA firm may plan to run advertisements about your ability to prepare federal or State income tax returns.

If you choose to run an ad, be sure that both you and your CPA firm understand the Board's advertising and forms of solicitation rule, 21 NCAC 8N .0306, which addresses deceptive advertising and specialty designations, before you develop your ad(s).

Foremost, your advertisement should be accurate and contain meaningful information that is not misleading or deceptive to consumers.

For example, you should not use any qualitative or quantitative descriptions, such as expert or reasonable, which cannot be documented.

After all, the fees that you deem "affordable" may not be affordable to everyone who reads your advertisement.

Your ad may contain the names of the CPA firm owner(s) and CPAs licensed to practice in North Carolina; however, you must distinguish between the CPAs who are owners and the CPAs considered professional staff.

Although NCGS 93-9 allows CPA firms to hire assistant accountants or clerks who are not CPAs, ads that contain the names of unlicensed staff members are not allowed.

The statute states that "such employees work under the control and supervision of certified public accountants...and do not hold themselves out as engaged in the practice of public accounting." The public should not be led to believe that uncertified employees are CPAs.

21 NCAC 8N .0306 addresses the use of specialty designations in advertisements or other forms of solicitation by stating, "A CPA may advertise the nature of services provided to cli-

ents but the CPA shall not advertise or indicate a specialty designation or other title unless the CPA has met the requirements of the granting organization for the separate title or specialty designation and the individual is currently on active status and in good standing with the granting organization for the separate title or specialty designation."

The Board does not approve or authorize specialty designations or separate titles and the use of the specialty designation is for public information purposes only.

Be sure that your tax season ads or solicitations are written in accordance with the Board's rule on deceptive advertising and specialty designations.

The public and the profession's interests are best served when CPA firms or individual CPAs take reasonable steps to avoid advertisements that confuse or mislead consumers.

ISB Releases Exposure Draft on Auditor Independence

On November 27, 2000, the Independence Standards Board (ISB) released for public comment an exposure draft of "A Conceptual Framework for Auditor Independence."

The framework defines, for the first time, what independence means for auditors.

In addition, it describes the goal of independence, provides guidelines for assessing independence risk and reflects a structure to deal with such risk.

"This framework is the ISB's most fundamental project. We hope that it will help interested parties understand the significance of auditor independence," said William T. Allen, ISB Chairman.

The document defines independence as "freedom from those pressures and other factors that compromise, or can reasonably be expected to

compromise, an auditor's ability to make unbiased audit decisions."

"In order to help ensure the credibility of financial reporting, independence may sometimes require more than compliance with express rules," Allen said.

"In determining whether independence is impaired in any specific instance, the framework calls for an assessment of how particular activities or relationships would appear to a reasonable, well-informed investor to affect the ability to make unbiased judgments."

The proposed framework includes a model for independence decision makers that encompasses three key steps: identifying threats to independence and their significance, evaluating the effectiveness of safeguards, and determining an acceptable level of independence risk.

As part of this analysis, independence decision makers also must consider the costs and benefits of regulations and the perceptions of interested parties. The framework puts forward five types of threats to auditor independence: self-interest; self-review; advocacy; familiarity (or trust) and intimidation.

"Perhaps the most significant contribution of the framework is the formal recognition that auditor independencies intended to support user reliance on the financial reporting process and to enhance capital market efficiency, rather than being an end in itself," Allen said.

Copies of the Exposure Draft are available from the ISB web site, (www.cpaindependence.org), or by calling the ISB at (212) 596-6133.

The comment period ends February 28, 2001.

Reporting Convictions, Judgments, and Disciplinary Actions

Pursuant to North Carolina General Statute (NCGS) 93-12(9), the Board has established the *Rules of Professional Ethics and Conduct* which govern the ethical conduct of CPAs.

To ensure each CPA's compliance with those rules, all licensees are required to disclose certain information regarding their ethical conduct. This request for information is made pursuant to 21 North Carolina Administrative Code (NCAC) 8N .0208, "Reporting Convictions, Judgments, and Disciplinary Actions."

Pursuant to 21 NCAC 8N .0208, licensees must notify the Board within 30 days of any conviction, or finding of guilt of, or pleading *nolo contendere* to a felony; or any crime of which dishonesty, deceit, fraud, a violation of federal or state law or a violation of the *Rules of Professional Ethics and Conduct* are an essential element.

In addition, a licensee must notify the Board within 30 days of any judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration, the basis of which is grounded upon an allegation of gross negligence, dishonesty, fraud, misrepresentation, incompetence, or violation of any federal or state law and which was brought against either the licensee or a North Carolina office of a CPA firm of which the CPA was a managing partner.

The Board's requirement that licensees report any conviction, judgment, or disciplinary action is an integral part of the annual renewal process.

When completing the annual renewal form, a licensee must divulge if he or she has been charged, arrested, convicted, found guilty of, received a prayer for judgment continued, or pleaded *nolo contendere* to any criminal offense (excluding non-criminal traffic infractions) since the filing of his or her last renewal form.

The licensee is also required to indicate if he or she has had an appli-

cation for a certificate or license denied, or if a certificate or license has been suspended, canceled, or revoked by any federal or state agency or governing or licensing board since filing his or her last renewal. This includes agencies such as the North Carolina Department of Revenue, the Securities Division of the Office of Secretary of State, the IRS, NASD, SEC, etc.

In addition, each licensee must report if he or she had been investigated, charged, or disciplined or is currently under investigation by a governing or licensing board or by a federal or state agency.

Although the licensee or his or her attorney may feel that the criminal offense has no relevance to the licensee's CPA title or that the licensee did nothing to warrant the disciplinary investigation, all such matters must be reported to the Board.

Finally, a licensee must indicate if he or she has been party to any civil suit, bankruptcy action, administrative proceeding, or binding arbitration, the basis of which is grounded upon an allegation of negligence, dishonesty, fraud, misrepresentation or incompetence.

Again, regardless of the licensee's belief or the belief of his or her attorney that the litigation is inconsequential or frivolous, all such actions must be reported to the Board.

Failure to report a criminal offense, disciplinary action, or civil litigation to the Board within 30 days and on the annual renewal form, may result in disciplinary action by the Board. This disciplinary action may include revocation—either permanently or for a specified period of time—of the licensee's certificate issued by the Board; censure of the licensee; or assessment of a civil penalty.

If you have questions regarding your reporting responsibility, contact Robert N. Brooks, the Board's Executive Director, at (919) 733-4222 or rnbrooks@bellsouth.net.

Board Meetings

February 19
March 16
April 23
May 21
June 25
July 23
August 20
September 18
October 22
November 19
December 18

All Board meetings are held at the Board's offices and are open to the public. However, under State law, some portions of the meetings are closed to the public. If you wish to address the Board on a specific issue, please contact the Board's Executive Director, Robert N. Brooks, at (919) 733-4222.

Attention May 2001 Exam Applicants

If you are planning to sit for the May 2001 Uniform CPA Examination, please note the following deadlines:

Initial exam applicants
January 31, 2001
Re-exam applicants
February 28, 2001

Your complete application must be postmarked or received in the Board office before the appropriate deadline.

The examination fee is \$175.00, regardless of the number of sections for which you are sitting. Your canceled check or credit card statement is proof only that your application was received—it does not indicate that your application has been approved.

To obtain an exam application, please call the Board's toll-free application line (1-800-211-7930) or visit the Board's web site (www.state.nc.us/cpabd).

Board Approves *Alternative Business Structure (ABS)* *Internal Guidelines*

At its November 20, 2000, meeting, the North Carolina State Board of CPA Examiners approved the final draft of the Alternative Business Structure (ABS) Internal Guidelines. The guidelines will serve as guidance for Board staff when answering questions regarding an ABS.

The guidelines were initially published as an Exposure Draft in the *Activity Review* and on the Board's web site (www.state.nc.us/cpabd) and were subject to public comment at several Board meetings. The final version is published below and is also available on the Board's web site.

The Board recommends that any CPA with an interest in an ABS read the guidelines, as well as the relevant statutes and rules. Questions regarding the Guidelines should be submitted, in writing, to Robert N. Brooks, Executive Director of the Board.

Alternative Business Structure (ABS) Internal Guidelines

Pursuant to North Carolina General Statute (NCGS) 93 and Title 21 of the North Carolina Administrative Code (21 NCAC) 8, the North Carolina State Board of CPA Examiners (the Board) has the responsibility to enforce NC statutes and rules regarding Certified Public Accountants (CPAs).

These internal guidelines are intended to serve as guidance for staff when explaining an ABS to CPAs licensed by this Board. These internal guidelines do not constitute approval or disapproval of any specific ABS. These internal guidelines describe standards relating to an ABS that should be met by all licensed CPAs who are involved with an ABS. Every licensed CPA involved in an ABS, who directly or indirectly participates in offering to perform or performing services to the public, must comply with the same requirements that apply to a licensed CPA offering to perform or

performing services to the public in a CPA firm. These internal guidelines do not constitute rule making and are not intended to create rights enforceable at law or in equity. As provided by NCGS 150B-2(8a)(c), the Board sets forth these internal guidelines as a "non-binding interpretative statement" in order to "define, interpret, or explain the meaning" of current applicable statutes and rules. To the extent these internal guidelines might describe some restrictions upon participants in an ABS that are not expressly articulated in current statutes or rules, these restrictions are to be regarded by licensees as necessary to ensure compliance with 8N .0402's pre-eminent requirement for independence "in fact and appearance" in a business structure that seems otherwise potentially ambiguous. If a CPA desires a binding interpretation of these internal guidelines in reference to a specific situation, the CPA must request a declaratory ruling pursuant to 21 NCAC 8B .0500. Many regulatory issues have yet to be identified regarding CPA firms and ABSs. The Board will continue to monitor the conduct of CPAs who have employment by, ownership in, or other affiliation with, an ABS and may adjust these internal guidelines, propose legislation, and adopt or amend rules as needed. All CPAs licensed by the Board shall comply with NCGS 93.

A CPA firm and the related ABS shall ensure that the client and the public know that the two entities are separate and distinct in nature and operation so that neither the client nor the public are confused by the relationship between the CPA firm and the ABS.

The CPA firm and the related ABS must have: separate and distinct legal entities; separate and distinct names, logos, and signage on and within building; separate and distinct stationery/envelopes, business cards, and yellow

page advertising under the CPA category; separate billings; separate engagement letters for clients of the CPA firm & clients of the ABS; and separate proposals to prospective joint clients.

A CPA firm in a relationship with an ABS shall have the resources including net worth, realizable assets, and/or liability insurance, necessary to provide assurance of financial autonomy and financial accountability for its professional services. All services performed by loaned, leased, or contracted employees between the entities shall be at fair market value.

Each engagement letter with a joint client must disclose the relationship between the CPA firm and the ABS and the limitations on the services provided by each.

All client and business records of the CPA firm are confidential and shall be kept separate from the client and business records of the related ABS. Access to those records is limited to the CPA firm unless the client has consented to access to his or her records by the ABS.

A CPA employed by the related ABS may use the CPA title on his or her stationery and business cards, and he or she may sign documents, except attest service documents, using the CPA title.

All CPAs licensed by this Board shall comply with NCGS 93, NCGS 55B, NCGS 57C, and 21 NCAC 8, as applicable, but not limited to the following which specifically affect CPAs, the CPA firm, and the relationship with the ABS: 8H .0105 *Use of CPA Title*; 8J .0108 *CPA Firm Registration*; 8N .0103 *Responsibility for Compliance*; 8N .0201 *Integrity*; 8N .0202 *Deceptive Conduct Prohibited*; 8N .0203 *Discreditable Conduct Prohibited*; 8N .0205 *Confidentiality*; 8N .0206 *Cooperation with Board Inquiry*; 8N .0207 *Violation of Tax Laws*;

8N .0208 *Reporting Convictions, Judgments*; 8N .0209 *Accounting Principles*; 8N .0210 *Forecasts*; 8N .0211 *Responsibilities in Tax Practice*; 8N .0212 *Competence*; 8N .0213 *Other Rules*; 8N .0301 *Professional Judgment*; 8N .0302 *Forms of Practice*; 8N .0303 *Objectivity and Conflicts of Interest*; 8N .0304 *Management Consulting Services Standards*; 8N .0305 *Retention of Client Records*; 8N .0306 *Advertising*; 8N .0307 *CPA Firm Names*; 8N .0402 *Independence*; 8N .0403 *Auditing Standards*; 8N .0404 *Accounting and Review Services Standards*; 8N .0405 *Governmental Accounting Standards*; 8N .0406 *Attestation Standards*; and 8N .0407 *Competitive Bidding*.

All CPAs licensed by this Board shall comply with all State and federal laws and regulations including, but not limited to 26 USC 7216, *Disclosure of Information*; 26 CFR 1.6695-1, *Signing Tax Returns*; and Treasury Circular 230, *Admission to Practice before the IRS*.

A CPA firm shall not provide any attest services to the related ABS or to any affiliate of the related ABS. An ABS may not offer to perform or perform any attest services including audits, reviews of financial statements, compilations of financial statements, examinations of prospective financial information, or agreed-upon procedures engagements.

A CPA firm, including its owners, employees, and contractors, shall not allow the related ABS to have any direct or indirect control or influence over the governance, structure, or operations of the CPA firm or over the performance of any services by the CPA firm.

Each agreement between an ABS or its affiliate(s) and the related CPA firm or any owner, manager, employee or contractor of the related CPA firm, must include an express provision which stipulates that there must be compliance with NCGS 93, NCGS 55B,

NCGS 57C and 21 NCAC 8 as applicable, and in the event of any conflict with the statutes and rules by any provision of the agreement or the application of any provision of the agreement, the statutes and rules shall prevail. CPAs and their employees and/or contractors providing attest services shall sign separate independence confirmations with respect to their independence in relation to all attest clients of the CPA firm and the related ABS. Independence standards pertaining to clients of a CPA firm, its owners, its employees, and its CPA contractors, shall not be circumvented by the provision of services through the related ABS or an affiliate of the related ABS. Accordingly, the CPA firm must treat the related ABS and its affiliates as affiliated parties for purposes of applying independence rules.

Access to, or transfer of, any CPA client records from the CPA firm to the ABS and from the ABS to the CPA firm shall occur only pursuant to the voluntary, advance consent of the client. If any owner of a CPA firm terminates his or her relationship with the CPA firm or if any CPA employee of the related ABS terminates his or her employment with the ABS, the client records of the CPA firm and the client records of the CPA leaving the related ABS shall remain with the CPA firm or CPA employee, respectively, until the client decides who shall retain the records.

The ABS and its personnel who provide services to the CPA firm must agree in writing to keep all information, with respect to clients of the CPA firm, confidential except as may be permitted by the client's consent.

Office space, equipment, administrative or professional personnel, or other services provided by the ABS to the related CPA firm shall be through a legally binding, non-exclusive contract at fair market value. A CPA firm must have the contractual right to

contract, to the extent it deems appropriate, for office space, equipment, administrative personnel, or other services, from a source other than the related ABS without direct or indirect financial costs or penalties under any contract between the CPA firm and the ABS or its affiliate(s).

The CPAs and/or the CPA firm shall bear all legal and financial responsibilities imposed by the Board for violations of any statutes, rules, or professional standards and the ABS may not indemnify the CPA firm for any such responsibilities.

The CPA firm shall have the contractual right to hire, contract for, or terminate, any particular employee(s) from the related ABS or from any other source. The CPA firm shall have the exclusive authority to supervise any contracted or hired personnel.

A CPA firm shall have the sole discretion to decide which clients it will accept and which engagements it will perform and how accepted engagements will be handled.

Exam Grades

Grade reports for the November 2000 Uniform CPA Examination grades will be mailed to candidates January 31, 2001.

A candidate whose address has changed since sitting for the exam should submit a "Change of Address" form (see page 8) to the Board as soon as possible.

Address changes must be in writing and may be faxed to the Exam section at (919) 733-4209.

A candidate may also e-mail his or her address change to jmacombe@bellsouth.net or pwelliot@bellsouth.net.

www.state.nc.us/cpabd

Reclassifications

Pursuant to 21 NCAC 8A .0301(b)(23), the following individuals have requested and been approved for inactive status from the Board. These individuals are no longer CPAs and therefore cannot use the title, "certified public accountant" and cannot be referred to as a "certified public accountant" in any representation whatsoever:

12/5/00	Jennifer Lynne Brannan	Clemmons, NC
12/6/00	Eugene Michael Konczal	Statesville, NC
12/6/00	Brenda Benham Brown	Apex, NC
12/7/00	Deborah Greene Casstevens	Winston-Salem, NC
12/7/00	Steven B. Glenn	San Francisco, CA
12/7/00	Tammie Bland Cartledge	Charlotte, NC
12/9/00	Bradley Mark Pickard	Peachtree City, GA
12/11/00	Edward J. Logue, Jr.	Cary, NC
12/11/00	Emily Poythress Howard	Raleigh, NC
12/13/00	Ross Thomas Dwyer, III	Mars Hill, NC

Licensing Activity December 2000

Certificates Issued

The following applications for certification were approved at the December 18, 2000, Board meeting:

Lillian Gonzalez
Mirhossein Mirsaidi
Dale R. Rector
Lynn Cizwski Tezza
Randy Steven Wilkerson

Reclassifications

Retired status because the individuals are completely retired and do not receive any earned compensation for current personal services in any job whatsoever :

James R. Hunter, III #2532
William Ronald Walton #10096

Certificate Forfeitures

On August 11, 2000, the following sixty-one (61) individuals forfeited their North Carolina CPA certificates for failure to file the certificate renewal form as required by North Carolina General Statute 93-12(15). As of the December 18, 2000, Board meeting, these individuals had not reinstated or filed applications for reinstatement:

Harold J. Bach	Robert Joseph Maraist, Jr.	Alan Gordon Spencer
John Manning Barnes, II	Andra Moore Martin	Joseph Anthony Staten
Teresa Blackwell	Hull Kirk McKinnon	David Ross Stern
Jennifer Alcon Blevins	Robert Lee Mendenhall	E. Brent Stewart
Wesley Martin Bond	Paul John Miedona	Catherine Lester Strong
Brian James Bostick	Kurt Philip Miller	James Ralph Talton, Jr.
Kelly Rogers Collins	Raymond J. Murtaugh	James Team, Jr.
Clifford A. Comfort, Jr.	Jacquelyn Ann Nelson-Owens	David Elliott Tepper
Peter Wood Craymer	Helen Wilmoth Norman	Richard Stephen Thomas
W. Douglas Ferriss	Bryce Allen Norton	David L. Thompson
Heather Alison Hamby	Harold Theodore Osborne	Robert Lyne Towne
Mark Harak	Gary C. Perlow	Shannon Elyse Tucker
William R. Harlowe, Jr.	Rena Rogers Perry	Heather Adams Tullar
Shannon Williams Hitchcock	Paige Elizabeth Powell	Stephen Bedingfeld Waters
James Carroll Hunt	Sandra L. Ridge	Joyce Mitchell Williams
John Eric Jeffries	Gregory Lane Ritter	James Michael Wilson
Lisa L. Konevitch	Richard Lamarr Rollins	James Russell Wilson, Jr.
Walter Ernest Lamb	Edward S. Ryan	Theodore Manning Wright
Douglas Leon Leonhardt	Larry Dean Smith	Melissa Anne Wright
Scott Glenn Lowery	Stephen Tomlinson Smith	William Johnson Wright
John H. MacKinnon		

Important 2001 Dates For CPAs and Exam Applicants

January 2	-	May 2001 Exam Applications Available
January 26	-	Certificate Renewals Mailed
January 29	-	November 2001 Exam Grade Release Date
January 31	-	May 2001 Exam Application Deadline for Initial Applicants
	-	Firm Renewal and SQR Compliance Information Final Deadline for 2001
February 28	-	May 2001 Exam Application Deadline for Re-exam Applicants
May 2-3	-	May 2001 Uniform CPA Examination (Raleigh & Winston-Salem)
June 15	-	November 2001 Exam Applications Available
June 30	-	Certificate Renewal Deadline
July 30	-	May 2001 Exam Grade Release Date
July 31	-	November 2001 Exam Application Deadline for Initial Applicants
August 31	-	November 2001 Exam Application Deadline for Re-exam Applicants
November 7-8	-	November 2001 Uniform CPA Examination (Raleigh & Winston-Salem)
November 21	-	Firm Renewal and SQR Compliance Information for 2002 Mailed
December 17	-	May 2002 Exam Applications Available
December 31	-	Firm Renewal and SQR Compliance Information Due for 2002

Please remove this page and save for future reference.

State Board of CPA Examiners

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Address Change? Let Us Know!

Certificate Holder _____
Last name Jr./III First Middle

Certificate No. _____ Send Mail to ____ Home ____ Business

New Home Address _____

City _____ State _____ Zip _____

CPA Firm/Business Name _____

New Bus. Address _____

City _____ State _____ Zip _____

Telephone: Bus. () _____ Home () _____

Bus. fax () _____ E-mail address _____

Signature _____ Date _____

**Mail to: NC State Board of
CPA Examiners
PO Box 12827
Raleigh, NC 27605-2827**

**Fax to: (919) 733-4209
Attn: Licensing
or
Examinations**

Certificate holders not notifying the Board in writing within 30 days of any change in address or business location may be subject to disciplinary action under 21 NCAC 8J .0107.